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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,686	01/24/2001	Eric Edwards	80398.P361	5370
7590	08/08/2005		EXAMINER	
Maria McCormack Sobrino BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP 7th Floor 12400 Wilshire Boulevard Los Angeles, CA 90025			DESIRE, GREGORY M	
			ART UNIT	PAPER NUMBER
			2625	
DATE MAILED: 08/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/769,686	EDWARDS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory M. Desire	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 April 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-51 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-12, 17-29, 34-46 and 51 is/are rejected.

7)  Claim(s) 13-16, 30-33 and 47-50 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 1/24/01 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**DETAILED ACTION**

1. This action is responsive to appeal brief filed 4/20/05.

***Response to Arguments***

2. Applicant's arguments, see appeal brief page 4 lines 16-31, filed 4/10/05, with respect to the rejection(s) of claim(s) 1-51 under 35 USC 102 and 103 have been fully considered and are persuasive. Therefore, the final rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Anderson et al (6,912,311) and Shimori (6,567,983).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 10-12, 17-20, 22, 27-29, 34-37, 39, 44-46 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (6,912,311) in view of Shimori (6,567,983).

Regarding claims 1, 12, 18, 29, 35 and 46 Anderson discloses, Forming an image template containing (note col. 3 lines 51-52 cites a template represented by) a first edited image (col. 3 lines 50-62, examiner interprets the plane file

as images, instructions are applied to a plane, thus forming an edited image) and a selected record of at least one image editing operation (note col. 3 line 62- col. 4 line 4, examiner interprets the template file with instructions called tags or hints as records of editing operations), said image editing operation having been performed on a first image to obtain said first edited image(note fig. 7 in connection with col. 4 lines 39-50, fig. 10, fig. 11 and fig. 13 and col. 5 and col. 6, the examiner primarily focuses on fig. 13, shows template 1320, shows and edited image (planed) where the editing operation of masking is performed on the background image plane);

Applying said image template to at least a second image (note fig. 4 block 420 and col. 4 lines 5-7 and 11-12, image template is clearly applied to a selected image interpreted as a second image).

Anderson does not disclose expressly background plane as an image. Shimori discloses background image (note fig. 5 and col. 6 lines 66-67, shows a clean background image plane prior to editing). Anderson and Shimori are combinable because they are from the same field of image editing. At the time of the invention it would have been obvious to a person of ordinary skill in the art to include background image in the system of Anderson as a first image as evidenced by Shimori. The suggestion/motivation for doing so would have been representing a frame image for editing image is created (note col. 6 lines 30-43). Therefore it would have been obvious to combine Anderson with Shimori to obtain the invention as specified in the above claims.

Regarding claims 2, 19 and 36 Anderson and Shimori discloses,

Storing selected record of at least one image editing operation with first edited image in an image file (note fig. 7, stores editing operation and plane list 730).

Regarding claims 3, 20 and 37 Anderson and Shimori discloses,

Storing selected record at least one image editing operation in a storage file separate from said first edited image (note plane file col. 2 line 50-60, is separate from tags (image editing operation)).

Regarding claims 5, 22 and 39 Anderson and Shimori discloses,

Image editing operation further comprises enhancing color characteristics of said first image (note col. 6 lines 35-40).

Regarding claims 10, 17, 27, 34, 44 and 51 Anderson and Shimori discloses,

Receiving said at least one image editing operation from a user (note col. 6 examiner interprets choosing template as user selecting editing operation).

Regarding claims 11, 28 and 45 Anderson and Shimori discloses,

Retrieving an image from a database module and transmitting said first image to a user (note col. 6 lines 59-67, examiner interpret image catalog being retrieved from database and transmitted to operator).

Art Unit: 2625

5. Claims 4, 21 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori in view of Rissman (6,552,743)

Regarding claims 4, 21 and 38 Anderson and Shimori are silent disclosing,

Image editing operation comprises cropping an image. However, Rissman includes cropping an image in editing operation (note col. 5 lines 36-39)

Therefore it would have been obvious to one having ordinary skills in the art to include cropping an image in an editing operation in the system of Anderson as evidenced by Rissman. Anderson reproduces images of photographed image and performs correction based on said image. Rissman in the same field of endeavor, system is inexpensive and efficient performing editing operations, which include cropping.

6. Claims 6-7, 23-24 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori et al in view of Enomoto.

Regarding claims 6, 23 and 40,

Anderson and Shimori are silent disclosing image editing operation comprising modifying brightness characteristics. Enonomoto discloses modifying brightness characteristics of said fist image (note col. 12 lines 23-30, cites a unit that adjust brightness). Anderson and Enomoto are combinable because they are from the same field of endeavor print editing. At the time of the invention it would have been obvious to a person of ordinary skill in the art to include modifying brightness in the system of Anderson as evidenced by Enomoto. The suggestion/motivation for doing so would have been image correction to reduce deterioration (note col. 4 lines 20-35).

Regarding claims 7, 24 and 41 Anderson, Shimori and Enomoto discloses,

Image editing operation further comprises modifying luminosity characteristics of said first image (note Anderson col. 15 lines 52-55, examiner interprets decreasing luminosity as modifying luminosity characteristics).

7. Claims 8-9, 25-26 and 42-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori in view of Suzuki (5,019,858).

Regarding claims 8, 25 and 42 Anderson and Shimori are silent disclosing,

Applying image effect on a first image. However, Suzuki applies image effect on a first image (note col. 2 lines 63-68).

Therefore it would have been obvious to one having ordinary skills in the art to apply image effects in the system of Anderson as evidenced by Suzuki. Anderson system produces an edited image. Suzuki in the same field of endeavor applies effects to color components separating and adjusting color components obtaining accurate correction quantities (note col. 2 lines 29-35).

Regarding claims 9, 26 and 43 Anderson, Shimori and Suzuki discloses,

Wherein said image effect is a filter (note Suzuki col. 2 lines 63-68).

***Allowable Subject Matter***

8. Claims 13-16, 30-33 and 47-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-16, 30-33 and 47-50 further limits the function of second edited image.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory M. Desire  
Examiner  
Art Unit 2625

G.D.  
July 28, 2005

A handwritten signature in black ink, appearing to read "Gregory Desire".